

Coercive Sterilization of Romani Women in Central Europe: Slovakia

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The Helsinki Commission is today hearing testimony on matters concerning the coercive sterilization of Romani women in the Czech Republic.

These issues have been raised high on the agenda in the Czech Republic in part because they have been particularly severe in Czechoslovakia and its successor states -- the Czech Republic and the Slovak Republic. In the former Czechoslovakia, the coercive sterilization of Romani women was elevated to the status of official policy. After the fall of Communism, Czechoslovak officials cancelled this policy, but not all doctors got the message; the practice has continued in both republics until very recently.

They have also been raised high on the agenda in the Czech Republic because of the bravery and engagement of the Czech Public Defender of Rights (“Ombudsman”) and his staff, particularly Deputy Ombudsperson Anna Sabatova. However, it is important in the context of this briefing to emphasize several points:

- In the first place, as Gwendolyn Albert has testified here today, the mainstream policy and law sector of the Czech Republic has not yet acted at all on the Ombudsman’s recommendations, which were published in December 2005. It is not enough for Czech officials to recognise that there has been a serious problem haunting Czech medicine; the government has an obligation both to act to prevent future abuses of this kind (by adopting adequate laws to protect individuals from these extreme harms), and to provide redress from the victims of these practices.
- Secondly, Slovak officials have approached these matters with nothing like the good will that the Czech Ombudsman has brought to the issue. Slovak officials have undertaken almost every possible effort to deny the existence of the problem, to hound the victims into silence, and to thwart any and all efforts to seek justice in these matters. Where Czech officials have to date been delinquent in righting these wrongs, Slovak officials have deliberately and maliciously sought to thwart justice.
- Finally, these are pan-European matters. The Czech and Slovak cases are particularly extreme, but are not isolated aberrations. Legacies of eugenics and racism, combined with weak patients rights cultures and bad law continue to provide a basis for concern. In Hungary, the ERRC is currently involved in litigation relating to coercive sterilisation matters taking place in post-Communism. Germany, Norway, Sweden and Switzerland all have histories of coercive sterilization of minorities and other groups. The Swiss government has acknowledged these practices and published a major study on the matter. The Swedish government has also done so, and has approved a compensation mechanism for victims.

Discussion of these matters follows, with particular focus on the very worrying situation in Slovakia:

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In April 2003, the ERRC testified before a Supplementary Human Dimension Meeting of the Organization for Security and Co-operation in Europe (OSCE) that sterilizations absent full and informed consent continued to be performed on Romani women in Slovakia. At that time, these matters had taken on urgency as a result of the publication of the report “Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia”, an NGO report providing extensive documentation of these issues.² At the April 2003 OSCE meeting, the ERRC provided its own documentation supporting the conclusions of the “Body and Soul” report.

The profile in cases in Slovakia, as in the Czech Republic, involves race-based targeting of Romani women for invasive and in most cases irreversible surgical procedures aimed at (and in most cases succeeding in) nullifying their ability to have children. The women concerned have been excluded from any form of dignified involvement in decisions to sterilize. Hundreds of women have been bullied or tricked into signing consent forms, signed them only after being informed that the operation had already taken place, or never signed them at all. They have emerged from childbirth traumatized and emotionally scarred for life.

A very frequent profile of such cases is as follows: a Romani woman, frequently from a poor, marginalized family, is recommended for birth by caesarean section. A form of caesarean section operation is performed (from among several available types of such procedures) which, if applied a second time, will make a third pregnancy potentially life-threatening. There are other forms of caesarean section which would not give rise to threats to the mother, but doctors choose not to undertake them. During the second birth, also performed by this particular mode of caesarean section, the woman concerned is sterilized by tubal ligation. Despite ample opportunity during the pregnancy, the woman concerned is never informed that sterilization may even be a possibility during her second birth.

Doctors performing such procedures secure consent for such sterilizations by waiting until the woman concerned is in labor and then requesting signatures on consent forms. Or they wait until she is heavily sedated to press for the signature. Or they offer the forms after the birth as “routine paperwork” to be signed by the out-patient. Or they never secure consent at all. In some cases, there is a visible paper trail of the racial considerations which go into such decisions.

In advanced democracies, standard procedure in such cases involves a formal request by the patient. The patient must fill out a detailed questionnaire to ensure that she understands all possible consequences of such procedures, including possible secondary health effects and the ultimate consequence – a permanent end to all possibilities for childbirth. In countries where legal protections are adequately in place, there is also a “cooling off” period of one or more months, before the operation takes place. Following this “cooling off” period, the person requesting the operation must explicitly re-affirm that they wish to be sterilized. Otherwise, the operation cannot take place.

² Center for Reproductive Rights and the Advisory Centre for Citizenship and Human and Civil Rights, “Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia”, on the Internet at: http://www.crlp.org/pub_vid_bodyandsoul.html.

In Slovakia, the conditions under which Romani women have been sterilized make a complete mockery of the idea of protections of patients against abuses by doctors. Cases documented by the ERRC and others include:

- Cases in which consent had not been provided at all, in either oral or written form, prior to the operation;
- Cases in which consent was secured during delivery or shortly before delivery, during advanced stages of labor, i.e., in circumstances in which the mother is in great pain and/or under intense stress;
- Cases in which consent appears to have been provided (i) based on a mistaken understanding of terminology used, (ii) after the provision of apparently manipulative information and/or (iii) absent explanations of consequences and/or possible side effects of sterilisation, or adequate information on alternative methods of contraception;
- Cases in which officials put pressure on Romani women to undergo sterilisation, including through the use of financial incentives or threats to withhold social benefits.

In a number of the cases documented in 2002 and 2003, explicit racial motive appears to have played a role during doctor-patient consultations. As the U.S. Helsinki Commission has itself noted,³ a number of high-ranking Slovak public officials have in fact made statements promoting the idea that Romani birth rates need to be curbed, possibly by force.

NGO findings were affirmed by a number of intergovernmental authorities during 2003. For example, following visits to Slovakia, the Council of Europe's Commissioner for Human Rights Mr. Alvaro Gil-Robles stated: "[...] on the basis of the information contained in the reports referred to above, and that obtained during the visit, it can reasonably be assumed that sterilizations have taken place, particularly in eastern Slovakia, without informed consent. The information available to the Commissioner does not suggest that an active or organized Government policy of improper sterilizations has existed (at least since the end of the communist regime). However, the Slovak Government has, in the view of the Commissioner, an objective responsibility in the matter for failing to put in place adequate legislation and for failing to exercise appropriate supervision of sterilisation practices although allegations of improper sterilizations have been made throughout the 1990's and early 2000."⁴

The Commissioner further concluded that "The issue of sterilizations does not appear to concern exclusively one ethnic group of the Slovak population, nor does the question of their improper performance. It is likely that vulnerable individuals from various ethnic origins have, at some stage, been exposed to the risk of sterilization without proper consent. However, for a number of factors, which are developed throughout this report, the Commissioner is convinced that the Roma population of eastern Slovakia has been at particular risk."⁵ (Emphasis added.)

Similarly, an independent study mission of the Inter-European Parliamentary Forum on Population and Development (IEPPFD) concluded, "Participants did find, that in most cases Romani woman were sterilized without sufficient information to make an informed consent. This

³http://www.csce.gov/index.cfm?Fuseaction=ContentRecords.ViewDetail&ContentRecord_id=202&Region_id=0&Issue_id=0&ContentType=R&ContentRecordType=R

⁴ "Recommendation of the Commissioner for Human Rights Concerning Certain Aspects of Law and Practice Relating to Sterilization of Women in the Slovak Republic", paras. 51 and 52, at: http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/CommDH%282003%2912_E.doc

⁵ Ibid., Para. 35.

is due to the fact, that hospital doctors do not consider it their duty to inform the woman, even when they should have realised that the patient has not attended prenatal care, where this information is supposed to be given and will also not attend post natal care. In cases of emergency the patient is also not informed. This is open to very strong criticism.”⁶

At the April 2003 OSCE meeting, Slovak officials responded to reports about the coercive sterilization of Romani women by renewing threats made previously, at the time of the publication of the “Body and Soul” report, that the authors of the report would be criminally prosecuted. If the report proved correct, these officials maintained, then the authors of the report would be prosecuted for failing to report a crime (a criminal offence in Slovakia). If, on the other hand, the “Body and Soul” report proved to include false information then, said Slovak officials, the authors of the “Body and Soul” report would be prosecuted for spreading false reports, also a criminal offence in Slovakia.

In addition:

- The Slovak Ministry of Health directed hospitals not to release the records of the persons concerned to the legal representatives of the victims;
- Slovak prosecutors – despite extensive advice not to do so – opened investigations for the crime of genocide, a crime so serious that evidentiary standards could not be met, and they then predictably concluded that this crime had not been committed, ending their investigation into the matter. The same authority has repeatedly released misleading information to the media, deliberately perpetuating a state of delusion about the matter currently prevailing among the Slovak public.
- Slovak police investigating the issue urged complainants to testify, but reportedly warned a number of them that their partners might be prosecuted for statutory rape, since it was evident that they had become pregnant while minors; under this pressure, a number of victims withdrew testimony.

Efforts to coercively sterilise Romani women in the Czech Republic and Slovakia have arisen as a result of a combination of factors including but not necessarily limited to: (i) the unaddressed legacy of eugenics in Central and Eastern Europe, which continues to influence medical practice in these countries to today; (ii) a general vacuum of respect for patients' rights, (iii) particular contempt for the moral agency of Roman women; and (iv) “concern” at high levels of Romani birth rates. As a result of these, hundreds of Romani women have suffered extreme harms at the hands of doctors. These issues have been raised regularly by domestic and international agencies since the late 1970s. As yet, however, no action by either government has been sufficient to provide adequate remedy to victims, or even to stop the practice once and for all.

A number of legal complaints are pending with respect to these issues in the Czech Republic and Slovakia. One complaint is pending concerning these issues in Hungary. Since no authority in any country in Central and Eastern Europe has yet provided the kind of just satisfaction the governments of Norway and Sweden have managed on coercive sterilization issues, these efforts will continue. There are also reasons for believing that the time is right for a pan-European or even global initiative to examine the issue and to provide guidance on ways forward. This is an area in which U.S. leadership can play a key role in seeing justice done.

⁶ See: http://www.iefpd.org/index.asp?ID=360&id_sous_menu=14